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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

ORLY GENDER,

Debtor.

Chapter 7

Case No.: 19-13895 (JLG)

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DALIA GENDER,

Plaintiff,

-against-

Adv. Pro. No. 20-01010 (JLG)

ORLY GENDER, MICHAEL BOWEN,
ARIE GENDER, ARNOLD BROSER,
DAVID BROSER, ERIC HERSCHMANN,
THE GENDER LITIGATION TRUST,
ADBG LLC, TEDCO INC., and
DEBORAH PIAZZA as chapter 7 trustee,

Defendants.

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**JOINDER OF CHAPTER 7 TRUSTEE TO VARIOUS DEFENDANTS’
OPPOSITION TO MOTION OF DALIA GENDER PURSUANT TO
FED. R. BANKR. P. 9023 AND LOCAL RULE 9023-1 (I) TO RECONSIDER
THE MEMORANDUM DECISION AND ORDER GRANTING THE
CHAPTER 7 TRUSTEE AND THE VARIOUS DEFENDANTS’ MOTIONS TO
DISMISS DALIA GENDER’S AMENDED COMPLAINT; (II) GRANTING
REARGUMENT; AND (III) UPON REARGMENT, GRANTING LEAVE TO REPLEAD**

TO: THE HONORABLE JAMES L GARRITY
UNITED STATES BANKRUPTCY JUDGE:

Deborah J. Piazza, not individually but solely in her capacity as the Chapter 7 trustee (the “Trustee” or the “Defendant”) of the estate of Orly Genger (the “Debtor”) in the above captioned case, by her attorneys, Tarter Krinsky & Drogin LLP, respectfully submits this joinder (the “Joinder”) to the opposition (the “Opposition”) filed by Defendants Orly Genger, Arnold Broser, David Broser, ADBG LLC and Tedco, Inc., Arie Genger and The Genger Litigation Trust (collectively, the “Defendants”) to Dalia Genger’s (“Dalia”) motion pursuant to Fed. R. Bankr. P. 9023 and Local Rule 9023-1 (the “Motion”) to (i) reconsider the Court’s Memorandum Decision and Order dated August 12, 2021 (the “Opinion”) granting the Trustee’s and various defendants’ motions to dismiss Dalia’s Amended Complaint, (ii) grant reargument, and (iii) upon reargument, grant leave to replead. In support of this Joinder, the Trustee respectfully represents as follows:

JOINDER

1. The Trustee joins in the Defendants’ Opposition [Dkt. No. 47] to the Motion. The Court’s well-reasoned Opinion addressed the arguments raised by all of the parties in extensive briefing before the Court and almost four hours of oral argument earlier this year. Further, as is clear from the Opinion, the Court already considered the numerous exhibits (including prior court rulings) annexed to the declarations of various counsel in support of the parties’ arguments. To the extent necessary, in further support of the Joinder, the Trustee respectfully incorporates the legal arguments and case law authorities cited in the Trustee’s motion to dismiss the Amended Complaint [Dkt. 16], the Trustee’s reply dated July 17, 2020 [Dkt. No. 24], the other motions to dismiss and replies filed other Defendants, as well as any supporting declarations thereto.

2. As repeatedly stated throughout the course of this case, the Amended Complaint did not have any merit whatsoever and caused the estate to incur tens of thousands of dollars in legal fees in response thereto. Similarly, the Motion does not come close to satisfying the legal standards for reconsideration and reargument, and there is no basis to permit Dalia to further amend the Amended Complaint. It is unfortunate that additional legal fees were required to have been incurred in response to the baseless Motion, for which the Court appears to have scheduled oral argument on October 20, 2021. As noted in the Defendants' Opposition, as set forth in the Local Rules of the Court, the Court is within its discretion to cancel the hearing and deny the Motion without the need for reargument, thereby sparing the estate the additional expense associated with oral argument. In sum, the Trustee respectfully submits the Motion should be denied.

WHEREFORE, the Trustee respectfully requests entry of an order denying the Motion and for such other and further relief as the Court may deem just and appropriate.

Dated: New York, New York
October 13, 2021

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Chapter 7 Trustee

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